



Journal of the Senate

State of Indiana

114th General Assembly

First Regular Session

Fourth Meeting Day

Monday Morning

January 10, 2005

The Senate convened at 9:01a.m., with the President Pro Tempore of the Senate, Robert D. Garton, in the Chair.

Prayer was offered by Senator Robert L. Meeks.

The Pledge of Allegiance to the Flag was led by Senator Meeks.

The Chair ordered the roll of the Senate to be called. Those present were:

Alting	Long
Antich-Carr <input checked="" type="checkbox"/>	Lubbers
Bowser	Lutz
Bray	Meeks
Breaux	Merritt
Broden	Miller
Clark	Mishler
Craycraft <input checked="" type="checkbox"/>	Mrvan
Dillon <input checked="" type="checkbox"/>	Nugent
Drozda	Paul
Ford	Riegsecker
Gard	Rogers
Garton	Server
Harrison	Simpson
Heinold	Sipes
Hershman	Skinner <input checked="" type="checkbox"/>
Howard	Smith
Hume	Steele
Jackman	Waltz
Kenley	Waterman
Kruse	Weatherwax
Lanane <input checked="" type="checkbox"/>	Wyss
Landske	Young, M.
Lawson	Young, R.
Lewis	Zakas

Roll Call 5: present 45; excused 5. [Note: A ☒ indicates those who were excused.] The Chair announced a quorum present. Pursuant to Senate Rule 5(d), no motion having been heard, the Journal of the previous day was considered read.

REPORT OF PRESIDENT PRO TEMPORE OF APPOINTMENTS TO COMMITTEE TO WAIT UPON THE GOVERNOR AND LIEUTENANT GOVERNOR

Madam President: I hereby appoint Senators Clark, Lubbers, Howard, and Lutz to a Committee to inform the newly elected Governor and Lieutenant Governor of their election, to ascertain at what time it will be convenient for them to take the oath of office, to report thereon to the Joint Convention of the General Assembly, and to escort the Governor-elect and Lieutenant Governor-elect to the Joint Convention of the General Assembly.

GARTON

SENATE MOTION

Madam President: I move that the Senate do now recess for the purpose of attending a Joint Convention of the Senate and the House of Representatives in the House Chambers to witness the opening and publishing of the election returns of the Governor and the Lieutenant Governor and thereafter to meet at the Pepsi Coliseum at the Indiana State Fairgrounds, for the inauguration of the Governor and Lieutenant Governor.

GARTON

Motion prevailed.

9:10 a.m.

The Chair declared a recess until 2:00 p.m.

Recess

The Senate reconvened at 2:16 p.m., with the President of the Senate in the Chair.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill 58, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 8-3-1-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 1.5. (a) This section does not apply to the extent that it violates or is preempted by federal law.**

(b) The department may inspect railroads and the conditions existing on all trains operating within Indiana, including areas that are:

- (1) along rail rights-of-way;**
- (2) in rail yards;**
- (3) in terminals; and**

(4) at rail loading and unloading facilities connected to property owned or operated by a railroad, except for those areas of loading and unloading facilities that do not require access for service by Class I railroads as classified under 49 CRF 1201 Subpart A, General Instructions 1-1. The inspection shall be conducted to assure the safety, health, and comfort of railroad customers, the general public, and railroad employees and to abate and remove dangerous or

unhealthy conditions found to exist in those locations.

(c) The department shall order:

(1) the abatement and removal of a dangerous condition or an unhealthy condition; or

(2) improvements to be made to remedy the dangerous or unhealthy condition;

by the railroad if the condition is shown to be dangerous to the safety or health of railroad customers, the general public, or railroad employees.

(d) A railroad operating in Indiana that willfully violates this section is liable to the department for the following penalties:

(1) For the first violation, a penalty of at least one hundred dollars (\$100) and not more than five hundred dollars (\$500).

(2) For a second violation that occurs not later than three (3) years after the first violation, a penalty of at least five hundred dollars (\$500) and not more than one thousand dollars (\$1,000).

(3) For a third violation that occurs not later than three (3) years after the first violation, a penalty of at least one thousand dollars (\$1,000) and not more than five thousand dollars (\$5,000).

(4) For a fourth or subsequent violation that occurs not later than three (3) years after the first violation, a penalty of at least five thousand dollars (\$5,000) and not more than ten thousand dollars (\$10,000).

This section shall be enforced by the attorney general in a county through which the railroad operates.

(e) The department may adopt rules under IC 4-22-2 to carry out this chapter.

(Reference is to 58 as introduced.)

and when so amended that said bill be reassigned to the Senate Committee on Homeland Security, Utilities, and Public Policy.

GARTON, Chair

Report adopted.

SENATE MOTION

Madam President: I move that Senator Antich-Carr be added as coauthor of Senate Bill 11.

FORD

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Garton be removed as author of Senate Bill 58 and that Senator Alting be substituted therefor.

GARTON

Motion prevailed.

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Senate Concurrent Resolutions 1, 8, and 9 and the same are herewith returned to the Senate.

M. CAROLINE SPOTTS
Principal Clerk of the House

SENATE MOTION

Madam President: I move that Senator Riegsecker be added as coauthor of Senate Bill 256.

LUBBERS

Motion prevailed.

2:21 p.m.

The Chair declared a recess until the fall of the gavel.

Recess

The Senate reconvened at 2:34 p.m., with the President of the Senate in the Chair.

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Engrossed House Bill 1021 and the same is herewith transmitted to the Senate for further action.

M. CAROLINE SPOTTS
Principal Clerk of the House

INTRODUCTION OF BILLS

The following bills and resolutions were read a first time by title and referred to the respective committees:

HB 1021 — Bray (Judiciary)

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation and consumer credit.

SENATE MOTION

Madam President: I move that Senator Lanane be added as second sponsor of Engrossed House Bill 1021.

BRAY

Motion prevailed.

SENATE MOTION

Madam President: I move we adjourn until 1:30 p.m., Tuesday, January 11, 2005.

GARTON

Motion prevailed.

The Senate adjourned at 2:41 p.m.

MARY C. MENDEL
Secretary of the Senate

REBECCA S. SKILLMAN
President of the Senate